

CITY COUNCIL MINUTES

June 9, 2008

REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, June, 2008 at 6:00 p.m. following a 5:15 Closed Session with Mayor Keith Nesbitt presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER

ROLL CALL:

Council Members Present: Bob Snyder, Kevin Hanley, J. M. Holmes, Bridget Powers, Keith Nesbitt

Council Members Absent: None

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Senior Planner Reg Murray, Fire Chief Mark D'Ambrogi, Public Works Director Jack Warren, Engineering Division Manager Bernie Schroeder, Transit Analyst Megan Siren, Administrative Services Director Andy Heath, Building Official Lisa Hoffrogge, Joanna Belanger Administrative Manager, Police Chief Valerie Harris

By **MOTION** adjourn to a closed session under Government Code Section 54957.6: **MOTION: Holmes/Hanley/Approved by voice**

CONFERENCE WITH LABOR NEGOTIATORS

Agency Designated Representatives: David Mackowiak, Robert Richardson

Employee Group: Local 39

REPORT OUT OF CLOSED SESSION

No reportable action.

PLEDGE OF ALLEGIANCE

MAYOR'S COMMENDATIONS/PROCLAMATIONS/ACKNOWLEDGEMENTS/ANNOUNCEMENTS

Proclamation: Placer High School Class of 1958 Day in Auburn, Friday June 13, 2008

Mayor Nesbitt read the proclamation and presented it to Council Member Holmes. Mayor Nesbitt congratulated the class on its 50th reunion. Council Member Holmes advised that he will present it to the class on Friday.

Mayor Nesbitt announced the passing of Auburn resident Dorothy Sanborn and offered his condolences to her son, Richard Sanborn. He said he will adjourn the meeting in her memory.

AGENDA APPROVAL

The agenda was approved as presented by consensus of the Council.

CONSENT CALENDAR

Items #3 and 7 were removed from the consent calendar for discussion at the request of City Attorney Michael Colantuono.

Council Member Snyder advised that he had a conflict of interest with Item #10 and that his approval vote of the consent calendar will include abstention from Item #10.

1. Approval of Warrants Paid – May 2008

By **RESOLUTION 08-71** ratify and approve payment of warrants 69299 through 69329 and warrants 69648 through 69848 totaling \$707,759.29.

2. Minutes

By **MOTION** approve City Council Minutes of April 28 and May 12, 2008.

3. Conflict of Interest Code – Biennial Review

Item removed for discussion to follow consent calendar.

4. Consultant Agreement for the Industrial Stormwater Permit at the Wastewater Treatment Plant

By **RESOLUTION 08-73** authorize the Director of Public Works to execute a consultant agreement with Eco:logic Engineers Consultants to update the Wastewater Treatment Plant Stormwater Pollution Prevention Plan and assist with the industrial Stormwater Permit at the Wastewater Treatment Plant.

5. **Request for Services of the Placer County Clerk for General Municipal Election**

By **RESOLUTION 08-74** approve the request of the City Clerk of the City of Auburn to utilize the services of the Placer County Clerk for the General Municipal Election of November 4, 2008.

6. **Agreement for Emergency Notification Services with Placer County**

By **RESOLUTION 08-75** approve and authorize the City Manager to sign the Agreement for Emergency Notification Services with Placer County.

7. **Weed Abatement – Declare Public Nuisance**

Item removed for discussion to follow consent calendar.

8. **Ordinance Clarifying that City Manager May Accept Offers of Dedication on Parcel Maps – 1st Reading**

Waive full reading and introduce for first reading an ordinance to amend the Auburn Municipal Code to more plainly authorize the City Manager to accept offers of dedication on parcel maps.

9. **Amendment of Auburn Municipal Airport Land Leases (Portion of Lots 4 and 26) and Grant of Easement (Lot 4)-G. Wray Crawford**

By **RESOLUTION 08-77**

- A. Authorize the City Manager or his designee to execute amendments to the Auburn Municipal Airport Industrial Park Land Lease Agreements for a portion of Lot 4, Section 28 and for a portion of 26, Section 28 between the City of Auburn and G. Wray Crawford.
- B. Authorize the City Manager or His designee to execute a Grant of Easement to the Placer County Water Agency for the construction and maintenance of any size water pipeline necessary to convey and or meter water as required by Placer County Water Agency Facilities Agreement no. 2358, dated June 21, 2007, as it relates to the Auburn Municipal Airport Industrial Park Land Lease for a portion of Lot 4 between the City of Auburn and G. Wray Crawford.

10. **Chamber of Commerce Request for Economic Development Commission Funds for the Auburn Family 4th of July**

By **RESOLUTION 08-78** approve the request from the Auburn Chamber of Commerce for \$3,155.00 in Economic Development Commission

Funding and \$2,250.00 in-kind support of the Auburn Family 4th of July event. **MOTION: Holmes/Powers/Approved 4:0 (Abstain:Snyder)**

Council Member Snyder abstained because he is a member of the Board of Directors of the Chamber of Commerce.

***** End of Consent Calendar *****

By **MOTION** approve the consent calendar excluding Items #3 and 7 with the understanding that Council Member Snyder has abstained from voting on Item #10. **MOTION: Holmes/Powers/Approved 5:0**

3. **Conflict of Interest Code – Biennial Review**

City Attorney Colantuno advised of two changes to the code. He stated that the title of Assistant Planner should read Senior Planner and at the end of the disclosure categories a sentence should be added to read: "Disclosure categories I and II incorporate disclosure categories 1 through 6 attached hereto."

By **RESOLUTION 08-72** adopt an amendment to the City's Conflict of Interest Code deleting the positions of Airport Manager and Corporation Yard Superintendent with the changes to Senior Planner and the disclosure changes as mentioned by the City Attorney. **MOTION: Hanley/Holmes/Approved 5:0**

7. **Weed Abatement – Declare Public Nuisance**

City Attorney Colantuono stated that the resolution in the agenda packet was to be replaced by a longer resolution which declares the nuisance and sets a hearing date for July 14, 2008 for abatement authorization for those who fail to respond to the notice.

Chief D'Ambrogi stated that property identified for abatement is primarily complaint-driven. Council Member Hanley asked if there possibly is a better system for identification. Chief D'Ambrogi said that when they to spot a potential violation or provide a homeowner inspection, the homeowner is notified. The Chief stated that they try to give the violator enough time to respond and/or correct the problem before being placed on the abatement list.

By **RESOLUTION 08-76** declare Public Nuisance of certain properties within the City of Auburn identified as containing weeds, rubbish, and or debris. **MOTION: Powers/Holmes/Approved 5:0**

11. **Public Comment**

Ed Koons, 1155 High Street, Auburn, stated that his law office is on the corner of Hale and High Street. He said if Hale Street is converted to a one-way street, he and others will not be able to get into their parking lot without circling the area. He said it would be a major inconvenience to both staff and clients.

Mayor Nesbitt asked Public Works Director Jack Warren if the “right turn only” could be changed to after 8:00 p.m. Mr. Warren stated that the item will be brought back to the Council before implementing signage with public feedback. He stated that at that time the Council would have the opportunity to make amendments prior to the trial period. He said one of the options would be to make Finley alone a one-way street to see how it functions.

Mr. Holbrook, Auburn resident, invited the Council and City residents to Auburn Recreation District’s annual “Party in the Park” to be held on June 20th at Regional Park.

Council Member Holmes congratulated the Auburn Fire Department for its award from Placer County Office of Education and the additional award from LEED, a branch of the Sacramento Chamber of Commerce.

Keith Nesbitt stated that he reluctantly accepted the resignation of Planning Commissioner Ray Merz and extended his appreciation for his service to the City.

PUBLIC HEARING

12. 2007 Weed Abatement Program, Assess Tax Roles

Fire Chief Mark D’Ambrogi introduced the item. He stated that two parcel owners did not pay their invoices after the 2007 abatement process. He asked for Council acceptance of the report and for the public hearing to hear any comments from the property owners or the public.

By **RESOLUTION 07-79** approve the 2007 cost report of the weed abatement program and direct the City Clerk to file a certified copy of the report with the Placer County Auditor-Controller in order to collect cost assessments. **MOTION: Hanley/Holmes /Approved 5:0**

13. Draft Density Bonus Ordinance – 1st Reading

Associate Planner Lance Lowe introduced the item. Carol Stewart, the City’s housing consultant, was present at the meeting. Mr. Lowe explained that the ordinance establishes standards and criteria, in accordance with State law, specifying how the City will provide for density

bonuses for residential development. He advised that the Planning Commission has made recommendations to the Council to take the following actions:

- A. By **MOTION** Adopt a Statutory Exemption prepared for the Density Bonus Ordinance as the appropriate level of environmental review in accordance with Section 15061 (b)(3) of the California Environmental Quality Act (CEQA) and Guidelines;
- B. By **MOTION** adopt the following “Findings of Fact” for approval of the Density Bonus Ordinance:
 - 1. The Density Bonus Ordinance implements State law and the City’s Adopted Housing Element of the General Plan;
 - 2. The Density Bonus Ordinance is consistent with the General Plan; and,
 - 3. The Density Bonus Ordinance is the minimum necessary to protect the public interest, health, safety and general welfare.
- C. By **MOTION** introduce and hold a first reading, by title only, of the Density Bonus Ordinance, adding Sections 159.335 *et seq.* of the Auburn Municipal Code establishing standards and criteria, in accordance with State law, for the City’s Density Bonus Ordinance.

Mayor Nesbitt questioned the approval or denial process for land dedication. Ms. Stewart advised that it would have to be of a specific size parcel and be able to produce a certain number of affordable units before a developer could receive the Density Bonus. Mr. Lowe explained that the agreement must be ratified by the City Council.

Mayor Nesbitt asked how the City can be assured that the affordable housing units will remain affordable. Ms. Stewart stated that a provision would be included in the agreement to state the length of affordability. She said State law requires a minimum of thirty years. She stated that it is primarily for condominium rental housing.

Council Member Snyder presented questions regarding density and zoning of donated parcels.

By **MOTION** adopt Planning Commission recommendations A, B and C.
MOTION: Holmes/Powers/Approved 5:0

- 14. **Public Hearing to Consider Levying of Assessments for Fiscal Year 2008-09 in Connection with the Old Town Business Improvement District and the Downtown Business Improvement District**

Administrative Manager Joanna Belanger introduced the item. She said that fees are collected for business improvement activities by the City for both business improvement areas. She said that the Old Town Business Improvement District has requested an increase to its assessment. She explained that comments with respect to the assessments can be heard during the evening's public hearing.

Richard Burge, member of the Old Town Business Association, opposed the increase and the fee itself. He advised that he had a list of 172 businesses that are in opposition to the increase and/or to the tax in its entirety. Council questions followed.

Ty Rowe, owner of Bootleggers Old Town Tavern and Grill, and President of the Old Town Business Association, stated that mailings went out to all businesses within the district regarding the proposed BID assessment. He said meetings were held and three or four people attended that opposed the increase. He said ballots were sent out about a year ago to everyone in the district. He said there were approximately 46 yes votes and 18 no votes that were returned. He explained that monies from the BID are not used for advertising. Council questions followed.

Gary Ford, Old Town merchant, explained that the Old Town and Downtown BID are not associated with one another. He said that this is not just a one-year change and will continue at whatever rate is set. He supported the increase.

Rhiannon Meischke Brentson, Old Town massage therapist, stated that she opposed the assessment. She explained that many of the current business owners were not in business at the time of the Old Town Business Association (OTBA) conducted its vote. She said that she has never received anything from the Association. She said that she opposed the assessment. She said Mr. Burge's list of those opposed vastly exceeded the supporting votes held by the OTBA. She also opposed paying the assessment, as an individual contractor, within a building owned or leased by someone else who is also paying the assessment fee.

Linda Lareau of Courthouse Coffee stated that she has concerns with the increase. She said her location is not included in the seasonal decorations of Old Town. She said due to the closing of the Courthouse for six months, her business will decrease. She said the increased assessment would greatly impact her business as well as other businesses.

Nell Curran of Bootleggers, Vice President of OTBA, stated that she and Mr. Rowe have made every effort to include all the businesses in the Old

Town area and provide information to them. She said there has been a minimal amount of response from the professionals. She said the additional increase is necessary for upkeep in Old Town. She said Christmas decorations will cover the entire district, requiring additional funds.

Gary Ford stated that the addition to the BID this year will be a new category for personal services, hair stylists, massage therapists and manicurists. He said the newly created category has a maximum of \$125 a year, opposed to the \$300 a year for retailers and professionals.

Richard Burge, 152 Maple Street, stated that only correspondence that he has ever received from OTBA is a notice for increasing the assessment. He said he has given the OTBA his e-mail address and has never received an e-mail or a telephone call at any other time. He said the owner of his building keeps up the façade and maintains an attractive building. He said he is not willing to pay to keep up buildings for their owners. He reiterated his opposition to the assessment.

Ross Carpenter, 125-127 Sacramento Street, stated that in 1987 the overhead lights on the buildings were put up by the OTBA. He said that the lights have deteriorated and have to be replaced. He said the increase in the BID assessment would help to pay the cost. He said all the OTBA is trying to do is properly maintain the area.

Jackie Rowe, Marketing Committee Member for Old Town, stated that she started to work on a new directory for the website in February. She said she sent out e-mails to everyone on the list and received four or five responses. She said she then obtained a complete list from the City of all the businesses and she and another person called every person on the list. She said, even at that, she received little response.

Rhiannon Brentson stated that she greatly appreciates Ms. Rowe's telephone calls. She asked how a "free website" could now be included in the costs for the OTBA.

Kim Gray, salon owner on Commercial Street, said that she and each of her contractors have been contacted by the OTBA. She asked about the how the contractors' fees were determined. Ty Rowe explained the criteria. Mr. Rowe continued with an explanation of the need to update the website.

Paul Williams, Williams Antiques and Collectables, stated that there is nothing in the bylaws that outlines the voting procedure. He said that if one is not computer literate, there is no way to know what is going on. He also questioned the purchase of two houses in Old Town. Ty Rowe

responded that there are hard copies of the meeting agendas available in addition to e-mail copies that are sent. He said monies are raised by the businesses in Old Town for specific projects that do not come from BID funds.

Council Member Powers questioned the proposed BID increase specific to the personal and professional service businesses. Ms. Belanager responded that she did not have a breakdown of each type of business.

Council Member Holmes stated that there should be a comparison total of last year's BID amount to this year's proposed BID amount. Ty Rowe responded that the increase would approximately double the total amount. Council Member Holmes stated that a retail operation with over a million dollars would pay approximately sixteen dollars a week and that personal service business would equate to approximately two dollars a week.

Council Member Hanley stated that his concern was with the professional service category. He said the "fee assessment should somehow correlate with the benefits." He agreed with the retail fees, not certain about the personal service category, and felt the professional fees were somewhat high. Mayor Nesbitt stated that he concurred with Council Member Hanley.

Council Member Holmes stated that the vote was taken a year ago and many businesses have come and gone since that time. He said new businesses have an adjustment period with many unknowns at its onset. Therefore, he said he is concerned about new businesses having to pay a flat fee to commence business. He said the businesses currently in the BID should be given an opportunity to vote again. He said the fees did not seem equitable.

In response to Council Powers' question regarding voting, City Attorney Michael Colantuono advised that the City is simply required to mail a notice and to offer an opportunity for protest. He said that action decided upon by the OTBA is not a part of the legal process involving the City.

Council Member Snyder stated that he has attended the majority of the meetings of the OTBA. He advised that he is strongly in favor of the BID process. He said the OTBA has tried to be equitable and has used rationale in its proposed fees. He said the Association has spent its money wisely and has improved Old Town. He said he felt the proposed fees were fair.

By **RESOLUTION 08-80** levy assessments for fiscal year 2008-09 in connection with the Old Town Auburn Business Improvement District, keeping the proposed retail assessment, lowering the personal service

business assessment from the proposed \$125 to \$100, lowering the professional service with one owner or principal of the company from the proposed \$300 to \$250, and to multiple owners or principals from the proposed \$600 to \$500. **MOTION: Hanley/ Holmes**

Council Member Hanley stated that he agreed with other Council Members. He stated that it is a very important program. He said a small adjustment in fees will still allow for good programs, but will be fairer to all fee payers.

Council Member Holmes asked if Council Member Hanley would agree to an amendment to the motion which requires the City Council to revisit personal service businesses and professional services businesses after ninety days. Council Member Hanley agreed to revisit the topic, but the assessment would remain as set for fiscal year 2009-2009.

By **RESOLUTION 08-80** levy assessments for fiscal year 2008-09 in connection with the Downtown Business Association and as to the Old Town Auburn Business Improvement District, keeping the proposed retail assessment for the Old Town Business Association, lowering the personal service business assessment from the proposed \$125 to \$100, lowering the professional service with one owner or principal of the company from the proposed \$300 to \$250, and to multiple owners or principals from the proposed \$600 to \$500 and directing staff to agendize revisiting service and professional service businesses in 90 days and imposing assessments in the Downtown Business Improvement District at current rates. **MOTION: Hanley/ Holmes/Approved 5:0**

REPORTS

15. Informational Reports from Committees & Commissions

Library Advisory Board Member Michael Otten stated that Dorothy Sanborn was the most devoted fan of the Auburn Placer County Library. She was the longest serving librarian and retired in 1989 after 23 years of service. She was third County librarian and the eighth City librarian. After her retirement she continued to work with the library initiating and assisting with many programs. He said the Friends of the Library will be meeting next Monday to talk about doing something in her memory.

Mr. Otten stated that the library is seeking additional space for its administrative staff and is hoping to keep an Auburn location as opposed to the De Witt Center. He provided written material to the Council including the Friends of the Library Newsletter and its annual report.

Telecommunications Chair Glenn Tonkin advised that Wave Communications is behind in its first quarter payment and has been notified. Administrative Services Director Andy Heath interjected that the payment had been received. Mr. Tonkin stated that the penalties for late payment will now have to be calculated. Mr. Tonkin said that the Commission has received positive feed back from subscribers.

Mr. Tokin advised that he has seen flyers from a company called "Sudden Link." He said it is another cable provider out of the Grass Valley area. He wanted to clarify that the City does not have another cable provider. The company is outside of the Auburn area.

Mr. Tonkin stated that a vacant seat remains on the Commission and volunteers are being sought.

Council questions followed.

16. **Informational Item, Quiet Zones**

Engineering Division Manager Bernie Schroeder presented the informational item regarding quiet zones. She explained that a quiet zone is a railroad crossing wherein trains do not sound their horns. She said there is an application process to be followed preceded by an evaluation, and an improvement plan which would allow for the Federal Railroad Administration (FRA) to qualify it as a quiet zone. She said a consultant would need to be hired for the evaluation with improvements suggested to become a candidate for a quiet zone crossing.

Ms. Schroeder advised that improvements can vary, ranging from \$11,000 to \$200,000 per crossing. She said that she outlined how other jurisdictions are approaching the issue in the staff report. She said funding would be difficult outside of the general fund.

City Attorney Colantuono advised that redevelopment money could be used at an intersection in, or serving, a project area.

Council Member Holmes, an advocate of the quiet zone, asked if the hiring of a consultant was absolutely necessary. He asked if application could simply be made to the Federal Railroad Administration and let the FRA advise of requirements. Ms. Schroeder stated that the FRA advised that it does not have time to visit each site. Therefore, in order to take an application seriously, the jurisdiction needs to hire a professional to evaluate the crossing prior to making application. Ms. Schroeder advised that it would take about \$50,000 for the evaluation by the consultant to find out what could be done to establish a quiet zone along with some financial commitment to the project.

Council Member Snyder stated that homes impacted by the train whistles are of lesser value than homes that are not impacted. He suggested that an assessment district be established for those whose property values would increase if a quiet zone was established. He said \$1000 each would raise enough money for the project and increase their property values. He said, if it is important to the direct beneficiaries, they will agree to the assessment. Ms. Powers, a member of the Traffic Committee, responded that when the cost is explained to citizens, they seem to easily understand why the City cannot resolve the problem.

Council Member Hanley stated that he liked Council Member Snyder's suggestion. Mr. Hanley asked that the four crossings be placed on the Capital Improvement Plan. He said the crossings should be looked at more carefully. He said the City should hold a town meeting and/or conduct a survey of the residents. He said he would like see a ballpark figure of the cost to a household. He said the households impacted should be determined with respect to how far the sound travels.

Mayor Nesbitt suggested that the item be referred to staff for further action.

City Attorney Colantuono stated that in order to frame a proposal, a combination of two kinds of consulting services would need to be utilized. He said an assessment engineer would be needed for acoustical data and a financial consultant, possibly the City's Finance Director. He said a financing strategy would need to be developed.

17. **City Council Committee Reports**

Council Member Powers stated the Traffic Committee will meet next week and the coming Saturday will be Clean-up Day in the City of Auburn.

Council Member Snyder stated that the Sierra Development Economic District is making loans to small businesses.

Mayor Nesbitt commended the organizers of the Confluence Festival.

COUNCIL BUSINESS

Council Member Snyder asked the Item 19 be heard prior to Item 18. The Council agreed without objection.

19. **Memorial Day to be Observed on the Traditional May 30th Date**

Council Member Holmes stated that Mr. Crouson was at a previous meeting asking for consideration of the Council to support returning Memorial Day to the traditional May 30th date. He said the measure has gone through a number of Veterans' groups at the National level. He said apparently Congress, who would have to make the change, has not agreed to do it. Mr. Holmes said, with the three-day weekend holiday, the purpose has been lost to many people.

Terry Carlson, 10095 Wise Road, advised that City's resolution would get the process started along with the assistance of many other groups. He said he just wants to get Memorial Day back to its original intent. Council questions followed.

Council Member Hanley advised that if Mr. Crouson wanted it debated in the Assembly and the Senate, it should be sent to legislators in the district of the resolution origin. The same would apply to letters or petitions. He said it could then be introduced by those legislators as a resolution.

Council Member Holmes suggested that Mr. Crouson send it to our current representative in Washington, D.C. and to our potential representatives along with our two Senators.

Council Member Powers suggested a petition of the citizens be initiated to have a stronger impact.

By **RESOLUTION 08-81** support the return of Memorial Day observance to the traditional May 30th date and submit a copy to the State of California and the Congress of the United States of America. **MOTION: Holmes/Hanley/Approved 5:0**

18. **Consideration of a Draft Letter to the Presiding Judge Concerning the Establishment of a Local Facility for Court Filings**

Council Member Hanley stated that after the commencement of the July Courthouse renovation, residents of the area will have to drive to Roseville to make routine filings. He said it is his understanding that when the Courthouse is back in operation, residents will still have file in Roseville. He advised that the letter simply requests that Placer County Superior Court set-up a permanent filing station in the general Auburn area.

By **MOTION** approve a letter to be sent to the Presiding Judge requesting a local facility be established to make court filings during the renovation of the Auburn Courthouse. **MOTION: Holmes/Hanley/Approved 5:0**

ADJOURNMENT

Mayor Nesbitt, without objection, adjourned the meeting at 9:07 p.m. in honor of Dorothy Sanborn.

Keith Nesbitt, Mayor

Joseph G. R. Labrie, City Clerk